

EXHIBIT B

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Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CHRISTIAN RUIZ BAPTISTE,

Plaintiff,

v.

LIDS, HAT WORLD, INC.; GENESCO,
CIN.; MICHAEL SAMOON; and DOES 1
through 5, inclusive,

Defendants.

CASE NO. 4:12-cv-05209-PJH (MEJ)

**NON-PARTY ORCHARD SUPPLY
HARDWARE STORES CORPORATION'S
OBJECTIONS TO PLAINTIFF CHRISTIAN
RUIZ BAPTISTE'S SUBPOENA TO
PRODUCE DOCUMENTS**

Judge: Hon. Phyllis J. Hamilton
Action Filed: October 9, 2012

Non-party Orchard Supply Hardware Stores Corporation ("Orchard Supply") submits the following objections to Plaintiff Christian Ruiz Baptiste's ("Plaintiff") Subpoena to Produce Documents ("Subpoena").

PRELIMINARY STATEMENT

As counsel for Orchard Supply has notified counsel for Mr. Baptiste, Orchard Supply inadvertently disclosed documents in response to the Subpoena, despite the pending Motion to Quash the Subpoena filed by Defendant Michael Somoon. (Dkt. 24.) Consequently, the disclosure was purely inadvertent and thus not voluntary. Orchard Supply has requested that Plaintiff (1) return all hard-copy copies of such documents to counsel for Orchard Supply at the address above and confirm that counsel for Mr. Baptiste has destroyed and/or deleted any electronic copies; (2) notify all parties to whom counsel for Mr. Baptiste provided such documents, as well as the deposition officer, to do

1 the same; and (3) provide counsel for Orchard Supply with the name and contact information for all
2 individuals—parties or non-parties—to whom counsel for Mr. Baptiste provided the documents so
3 that counsel for Orchard Supply may follow up with them. Orchard Supply's inadvertent disclosure
4 of those documents does not waive any objection that those documents are immune from discovery
5 nor does it waive any applicable privileges, protections or of any of the general or specific objections
6 made below with respect to those documents.

7 GENERAL OBJECTIONS

8 1. Orchard Supply objects to the requests to the extent that they seek information
9 protected from disclosure by the attorney-client privilege, the joint defense doctrine, the attorney
10 work product doctrine, or any other applicable privilege or protection. To the extent that the requests
11 may be construed as seeking privileged or protected documents, Orchard Supply hereby claims such
12 privilege and invokes such protection. Inadvertent disclosure of any information that is privileged or
13 otherwise immune from discovery shall not constitute a waiver of any privilege or of any other
14 ground for objecting to the discovery with respect to such information or the subject matter thereof,
15 or the right of Orchard Supply to object to the use of such information or the subject matter thereof,
16 during subsequent proceedings.

17 2. Orchard Supply objects to the requests to the extent that they purport to impose a
18 burden upon Orchard Supply of providing information that is not in Orchard Supply's possession,
19 custody, or control.

20 3. Orchard Supply objects to the requests to the extent they call for confidential, trade
21 secret, proprietary, or competitively sensitive information, or protected information of third parties,
22 whether arising out of contract or by law. Orchard Supply will only produce certain confidential,
23 trade secret, proprietary, or protected information subject to an appropriate, executed confidentiality
24 agreement.

25 4. Orchard Supply objects to the requests to the extent that they seek information that is
26 protected from disclosure by the right to privacy guaranteed by the United States and/or California
27 Constitutions.
28

1 5. Orchard Supply objects to the requests to the extent they are unreasonably broad,
2 unduly burdensome, oppressive, vague or ambiguous.

3 6. Orchard Supply objects to the definition of the terms “YOU” and “YOUR” insofar as
4 they render each request in which they are used vague, ambiguous, unintelligible, and overbroad,
5 including, but not limited to, as to time and scope, including from the standpoint of a non-party.
6 Additionally, Orchard Supply objects that the terms, as defined, cause the requests to seek documents
7 and/or information that is protected from disclosure by the right to privacy guaranteed by the United
8 States and/or California Constitutions. Orchard Supply also objects that the terms, as defined, cause
9 the requests to seek documents and/or information about “principals, affiliates, subsidiaries, parent
10 company’s, divisions,” thus disregarding the separateness of distinct corporate entities. Orchard
11 Supply also objects that the terms, as defined by the terms “your attorneys, investigators,” cause the
12 requests in which they are used to improperly seek documents and/or information that are protected
13 by the attorney-client privilege and/or work product doctrine.

14 7. Orchard Supply objects to the requests to the extent they seek documents and
15 information that are in the possession, custody or control of parties to this lawsuit.

16 8. Orchard Supply objects to the requests to the extent they seek the production of
17 documents not maintained in the usual course of business.

18 9 Orchard Supply objects to the requests to the extent they seek to impose duties and
19 obligations in addition to or inconsistent with those imposed by law.

20 10. Orchard Supply objects to the requests to the extent they seek information or
21 documents that are not reasonably calculated to lead to the discovery of relevant, material, or
22 admissible evidence.

23 11. That Orchard Supply has complied with part or all of the Subpoena shall not be
24 construed in any way as a waiver by Orchard Supply of all or part of any objection to the Subpoena.

25 12. Orchard Supply objects to the requests on the grounds that the Subpoena was
26 improperly issued under Federal Rules of Civil Procedure 45(a)(2)(C).

27 13. Orchard Supply objects to the requests on the grounds that the Subpoena was
28 improperly served under Federal Rules of Civil Procedure 45(b)(2)(B).

Without waiving any of the foregoing general objections, each of which is expressly incorporated into each applicable individual response as if fully stated therein, Orchard Supply responds to the Subpoena, as follows:

OBJECTIONS TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

ANY DOCUMENTS RELATING TO racial comments made by SOMOON during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “racial comments”, “made by” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

REQUEST FOR PRODUCTION NO. 2:

ANY DOCUMENTS RELATING TO racial statements made by SOMOON during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “racial statements”, “made by” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional,

1 statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks
 2 information protected by the attorney-client privilege, the attorney work product doctrine, or any
 3 other applicable privilege or protection. Orchard Supply further objects on the grounds that this
 4 Request is overbroad, unduly burdensome and harassing. Orchard Supply further objects on the
 5 grounds that this Request is unreasonably cumulative and duplicative of other Requests herein.

6 **REQUEST FOR PRODUCTION NO. 3:**

7 ANY DOCUMENTS RELATING TO racial slurs made by SOMOON during his
 8 employment with YOU.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

10 In addition to its General Objections, which are incorporated herein by reference, Orchard
 11 Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous,
 12 including, but not limited to, the terms “relating to”, “racial slurs”, “made by” and “during his
 13 employment.” Orchard Supply further objects to this Request to the extent it seeks information
 14 pertaining to individuals, the disclosure of which would constitute a violation of any individuals’
 15 right to privacy under Article I, section I of the California Constitution, or any other constitutional,
 16 statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks
 17 information protected by the attorney-client privilege, the attorney work product doctrine, or any
 18 other applicable privilege or protection. Orchard Supply further objects on the grounds that this
 19 Request is overbroad, unduly burdensome and harassing. Orchard Supply further objects on the
 20 grounds that this Request is unreasonably cumulative and duplicative of other Requests herein.

21 **REQUEST FOR PRODUCTION NO. 4:**

22 ANY DOCUMENTS RELATING TO complaints made against SOMOON about use of racial
 23 comments during his employment with YOU.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

25 In addition to its General Objections, which are incorporated herein by reference, Orchard
 26 Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous,
 27 including, but not limited to, the terms “relating to”, “complaints”, “made against”, “about use of”,
 28 “racial comments” and “during his employment.” Orchard Supply further objects to this Request to

1 the extent it seeks information pertaining to individuals, the disclosure of which would constitute a
2 violation of any individuals' right to privacy under Article I, section I of the California Constitution,
3 or any other constitutional, statutory, or common law right of privacy. Orchard Supply further
4 objects to the extent it seeks information protected by the attorney-client privilege, the attorney work
5 product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on
6 the grounds that this Request is overbroad, unduly burdensome and harassing. Orchard Supply
7 further objects on the grounds that this Request is unreasonably cumulative and duplicative of other
8 Requests herein.

9 **REQUEST FOR PRODUCTION NO. 5:**

10 ANY DOCUMENTS RELATING TO complaints made against SOMOON about use of racial
11 statements during his employment with YOU.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

13 In addition to its General Objections, which are incorporated herein by reference, Orchard
14 Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous,
15 including, but not limited to, the terms "relating to", "complaints", "made against", "about use of",
16 "racial statements" and "during his employment." Orchard Supply further objects to this Request to
17 the extent it seeks information pertaining to individuals, the disclosure of which would constitute a
18 violation of any individuals' right to privacy under Article I, section I of the California Constitution,
19 or any other constitutional, statutory, or common law right of privacy. Orchard Supply further
20 objects to the extent it seeks information protected by the attorney-client privilege, the attorney work
21 product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on
22 the grounds that this Request is overbroad, unduly burdensome and harassing. Orchard Supply
23 further objects on the grounds that this Request is unreasonably cumulative and duplicative of other
24 Requests herein.

25 **REQUEST FOR PRODUCTION NO. 6:**

26 ANY DOCUMENTS RELATING TO complaints made against SOMOON about use of racial
27 slurs during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “complaints”, “made against”, “about use of”, “racial slurs” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing. Orchard Supply further objects on the grounds that this Request is unreasonably cumulative and duplicative of other Requests herein.

REQUEST FOR PRODUCTION NO. 7:

ANY DOCUMENTS RELATING TO disciplinary action made against SOMOON about use of racial comments during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “disciplinary action”, “made against”, “about use of”, “racial comments” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing. Orchard Supply

1 further objects on the grounds that this Request is unreasonably cumulative and duplicative of other
2 Requests herein.

3 **REQUEST FOR PRODUCTION NO. 8:**

4 ANY DOCUMENTS RELATING TO disciplinary action made against SOMOON about use
5 of racial statements during his employment with YOU.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

7 In addition to its General Objections, which are incorporated herein by reference, Orchard
8 Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous,
9 including, but not limited to, the terms “relating to”, “disciplinary action”, “made against”, “about use
10 of”, “racial statements” and “during his employment.” Orchard Supply further objects to this
11 Request to the extent it seeks information pertaining to individuals, the disclosure of which would
12 constitute a violation of any individuals’ right to privacy under Article I, section I of the California
13 Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply
14 further objects to the extent it seeks information protected by the attorney-client privilege, the
15 attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply
16 further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.
17 Orchard Supply further objects on the grounds that this Request is unreasonably cumulative and
18 duplicative of other Requests herein.

19 **REQUEST FOR PRODUCTION NO. 9:**

20 ANY DOCUMENTS RELATING TO disciplinary action made against SOMOON about use
21 of racial slurs during his employment with YOU.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

23 In addition to its General Objections, which are incorporated herein by reference, Orchard
24 Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous,
25 including, but not limited to, the terms “relating to”, “disciplinary action”, “made against”, “about use
26 of”, “racial slurs” and “during his employment.” Orchard Supply further objects to this Request to
27 the extent it seeks information pertaining to individuals, the disclosure of which would constitute a
28 violation of any individuals’ right to privacy under Article I, section I of the California Constitution,

or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing. Orchard Supply further objects on the grounds that this Request is unreasonably cumulative and duplicative of other Requests herein.

REQUEST FOR PRODUCTION NO. 10:

ANY DOCUMENTS RELATING TO complaints made against SOMOON about use of violence towards employees during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “complaints”, “made against”, “about use of”, “violence”, “towards employees” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

REQUEST FOR PRODUCTION NO. 11:

ANY DOCUMENTS RELATING TO complaints made against SOMOON about threats of violence towards employees during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “complaints”, “made against”, “about threats

of", "violence", "towards employees" and "during his employment." Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals' right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

REQUEST FOR PRODUCTION NO. 12:

ANY DOCUMENTS RELATING TO disciplinary action made against SOMOON about use of violence towards employees during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms "relating to", "disciplinary action", "made against", "about use of", "violence", "towards employees" and "during his employment." Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals' right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

REQUEST FOR PRODUCTION NO. 13:

ANY DOCUMENTS RELATING TO disciplinary action made against SOMOON about threats of violence towards employees during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “disciplinary action”, “made against”, “about threats of”, “violence”, “towards employees” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

REQUEST FOR PRODUCTION NO. 14:

ANY DOCUMENTS RELATING TO complaints made against SOMOON about use of intimidation towards employees during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “complaints”, “made against”, “about use of”, “intimidation”, “towards employees” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

REQUEST FOR PRODUCTION NO. 15:

ANY DOCUMENTS RELATING TO disciplinary action made against SOMOON about use of intimidation towards employees during his employment with YOU.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

In addition to its General Objections, which are incorporated herein by reference, Orchard Supply further objects on the grounds that this Request is unintelligible, vague and ambiguous, including, but not limited to, the terms “relating to”, “disciplinary action”, “made against”, “about use of”, “intimidation”, “towards employees” and “during his employment.” Orchard Supply further objects to this Request to the extent it seeks information pertaining to individuals, the disclosure of which would constitute a violation of any individuals’ right to privacy under Article I, section I of the California Constitution, or any other constitutional, statutory, or common law right of privacy. Orchard Supply further objects to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Orchard Supply further objects on the grounds that this Request is overbroad, unduly burdensome and harassing.

Dated: September 25, 2013

CATHERINE A. CONWAY
KATHERINE V.A. SMITH
GIBSON, DUNN & CRUTCHER LLP

By: Katherine V.A. Smith
Katherine V.A. Smith

Attorneys for Orchard Supply Hardware Corporation

101595360.1

CERTIFICATE OF SERVICE

I, Margie Peck, declare as follows:

I am employed in the County of Orange, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 3161 Michelson Drive, Irvine, CA 92612-4412, in said County and State. On September 25, 2013, I served the following document(s):

**NON-PARTY ORCHARD SUPPLY HARDWARE STORES
CORPORATION'S OBJECTIONS TO PLAINTIFF CHRISTIAN RUIZ
BAPTISTE'S SUBPOENA TO PRODUCE DOCUMENTS**

on the parties stated below, by the following means of service:

Derek C. Decker
Radoslovich/Krogh, PC
701 University Avenue
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Sacramento, CA 95825

Tel (916) 565-8161
Fax (916) 565-8170
Derek@radlegal.com

- ☒ **BY OVERNIGHT DELIVERY:** On the above-mentioned date, I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses shown above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier with delivery fees paid or provided for.
- ☒ I am employed in the office of Katherine V.A. Smith, a member of the bar of this court, and that the foregoing document(s) was(were) printed on recycled paper.
- ☒ **(FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 25, 2013.



Margie Peck